



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examinations

1100 Commerce Street, MC 4920DAL

Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

501-03.00

March 26, 2013

Release Number: 201333016

Release Date: 8/16/2013

LEGEND

ORG – Organization name

XX – Date Address – address

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

**ORG
ADDRESS**

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated June 15, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

You have failed to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities as required by I.R.C. sections 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627.

Contributions to your organization are no longer deductible under IRC §170.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States

Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE
1100 Commerce Street MC 4900 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

July 26, 2012

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We propose to revoke our recognition of your exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). We enclose our report of examination explaining why we are proposing this action.

If you accept our proposal, please sign and return the enclosed Form 6018, *Consent to Proposed Action - Section 7428*, unless you have already provided us a signed Form 6018. We will issue a final revocation letter determining you are not an organization described in section 501(c)(3). After the issuance of the final revocation letter we will publish an announcement that you have been deleted from the cumulative list of organizations contributions to which are deductible under section 170 of the Code. If you do not respond to this proposal, we will similarly issue a final revocation letter. Failing to respond to this proposal may adversely impact your legal standing to seek a declaratory judgment because you may be deemed to have failed to exhaust administrative remedies.

If you do not agree with our proposed revocation and wish to protest our proposed revocation to the Appeals Office of the Internal Revenue Service, then you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. This written request is called a protest. For your protest to be valid it needs to contain certain specific information which generally includes a statement of the facts, the applicable law, and arguments in support of your

position. For the specific information needed for a valid protest, please refer to page 6 of the enclosed Publication 3498, *The Examination Process*, and page 1 of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you do submit a valid protest, then an Appeals officer will review your case. The Appeals Office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498 and Publication 892 explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation Services referred to in Publication 3498, generally do not apply after issuance of this letter.

You may also request that we refer this matter for Technical Advice as explained in Publication 892 and an annual revenue procedure. Please contact the individual identified on the first page of this letter if you are considering requesting Technical Advice. If we issue a determination letter to you based on a Technical Advice Memorandum issued by the EO Rulings and Agreements function, then no further administrative appeal will be available to you within the IRS on the matter.

If you receive a final revocation letter, you will be required to file Federal income tax returns for the tax period(s) shown above as well as for subsequent years. You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:

Publication 892
Publication 3498
Form 6018
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX

LEGEND

ORG - Organization name EIN - ein XX - Date Address - address City -
city State - state Phone - phone CFO - cfo Secretary - secretary
President - president POA - poa RA-1 & RA-2 - 1st & 2nd RA

ISSUE

Whether ORG, located and operated in State, continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code (the Code)?

FACTS

The ORG (hereinafter referred to as the Corporation) was formed as a nonprofit public benefit corporation in State. It was granted tax-exempt status on June 15, 20XX under Internal Revenue Code (the Code) Section (§) 501(a) as an organization described in (§) 501(c)(3). According to its Articles of Incorporation dated September 10, 20XX, the purposes of the Corporation are as follows.

The primary purposes for which this corporation is formed are exclusively charitable and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (the "Code") and Section 23701d of the State Revenue and Taxation Code, as amended, including, without limitation, the search to identify, formulate, promote, and implement functional solutions for the improvement and rehabilitation of those in society deemed to be disadvantaged, such as the anti-social, troubled, juvenile delinquents, criminals, dysfunctional or mentally deficient, and educating the general public in such matters.

The Corporation conducted its operations at Address, City, State, per its Form 990 filed for the years from 20XX to 20XX. The Corporation filed Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, for the year ended December 31, 20XX, on August 15, 20XX. The originally filed Form 990 for 20XX shows the following:

Income

Gross sales of inventory	\$ \$
Cost of goods sold	\$ \$
Total revenue	\$ \$

Expenses

Salaries, other compensation, and employee benefits	\$ \$
Professional fees	\$ \$
Occupancy, rent, utilities,	

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN		Year/Period ended 12/31/20XX

and maintenance	\$	\$
Printing	\$	\$
Other	\$	\$
Total Expenses	\$	\$
Excess for the year	\$	\$

The examining agent began the examination on 10/3/XX. Following is a chronological summary of completed actions throughout this examination process:

- 10/6/XX The examining agent called the phone number listed on Form 990 filed for year 20XX, but the dial could not be completed. The examining agent searched on the Internet for the contact information of the Corporation and made calls at phone numbers available. All dials were not able to complete.
- 10/8/XX The examining agent sent an initial contact letter, Publication 1, and a Form 4564, *Information Document Request* ("IDR") #1, to the Corporation at Address, City, State to start the first day of examination on 11/8/XX.
- 10/24/XX The contact letter with attachments mailed on 10/8/XX was returned to the examining agent that the letter was not deliverable. The examining agent made another attempt with certified mail. The examining agent also sent Form 4759, postal tracer, to postmaster in City to locate the Corporation.
- 11/8/XX The certified mail sent on 10/24/XX was return to the examining agent. The Post Office marked on the envelope: "RETURN TO SENDER NOT DELIVERABLE AS ADDRESS UNABLE TO FORWARD".
- 11/29/XX The examining agent received the response from US Post Office to the Form 4759 sent on 10/24/XX: the reference section was marked with "Moved, Left No Forwarding Address". The examining agent dialed the phone number that listed on the Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, filed by the Corporation on 11/4/XX as a part of contact information, it was answered by a different entity. The examining agent sent three contact letters with address available to the officers of the Corporation: CFO, CFO, and Secretary, Secretary, and President, President. In coming several weeks, the Post Office returned all these letters to the examining agent with a mark on envelopes: "RETURN TO SENDER NOT DELIVERABLE AS ADDRESS UNABLE TO FORWARD".
- 1/4/XX The examining agent searched on the Internet again since there was no response from the officers of the Corporation. The examining agent found a web page of the Corporation appeared on the Internet at website. The examining agent called the number Phone and left a voice message for a return call. The examining agent also

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

sent a contact letter, Publication 1, and IDR by certified mail to the address on the web page: Address, City, State.

- 1/5/XX RA-1 in the Corporation responded to the examining agent's voice message left on 1/4/XX. The examining agent told her that the examining agent needed to speak to an officer of the Corporation. She told the examining agent that President, the President of the Corporation would return call to the examining agent next day.
- 1/6/XX President, the President of the Corporation, returned call to the examining agent. During the phone conversation the examining agent informed President that the Form 990 the Corporation filed for 20XX had been selected for examination. The examining agent explained the examination process to President. The examining agent told President that a contact letter, IDR, and Publication 1 had been mailed to the Corporation's office in City with a tentative appointment date on 2/6/XX. President stated that he did not know if he would be available on that date. He would call back after he receives the letter.
- 1/10/XX The examining agent called President to follow up the mail sent to President on 1/4/XX. President stated that he had not received it yet.
- 1/17/XX The examining agent received returned post card (PS Form 3811) of certified mail sent on 1/4/XX. It was signed by RA-2 on 1/XX/XX.
- 1/19/XX The examining agent called the Corporation again to follow up the mail sent for President's confirmation for appointment 2/6/XX. The examining agent left a voice message to President.
- 1/24/XX The examining agent called the Corporation again and left another voice message to President.
- 1/25/XX President called the examining agent and stated that he needs to discuss with his accountant as to the date and location of the appointment. The examining agent explained to President that the location of appointment is usually set at the location where books and records are stored to facilitate the field examination process. The examining agent asked President where the books and records of the Corporation are stored. President did not answer the examining agent's inquiry. Instead President stated that he needs to discuss with his accountant before he can determine the location of meeting.
- 2/1/XX President left a voice message to the examining agent while the examining agent was out of office that President wanted to reschedule appointment on 2/6/XX because books and records would not be ready for examination. Additionally President needed more time to assign a Power of Attorney for representation of this examination. The examining agent returned call to the Corporation and spoke to Larry regarding the

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

appointment with President. The examining agent left a message with the examining agent's available dates for the appointment.

- 2/6/XX The examining agent called the Corporation to follow up the message left on 2/1/XX and left another voice message to President.
- 2/8/XX President called the examining agent after office hours and left the examining agent a message that President had received the examining agent's message with dates for the appointment. President stated that he would probably pick the date of 3/1/XX, but he was not sure yet how soon he will get books and records together for examination. President also stated that he would call the examining agent in a few days to settle the date and location of the appointment.
- 2/13/XX The examining agent sent President a letter in certified mail for an appointment with President on 3/1/XX.
- 2/16/XX The examining agent called the Corporation to follow up the letter sent on 2/13/XX and left a voice message to RA-2, one of the Corporation's employees.
- 2/27/XX President called the examining agent to reschedule appointment because President wanted to assign a Power of Attorney to represent the Corporation.
- 3/9/XX POA left a voice message to the examining agent that he would represent the Corporation.
- 3/12X/XX The examining agent received a Form 2848, *Power of Attorney and Declaration of Representative*, from POA. The examining agent asked for an appointment at his earliest convenience.
- 3/20/XX The examining agent contacted POA if he got an appointment with President yet. POA told the examining agent that he would check with President for an appointment in the 2nd and 3rd week of April. And he would contact the examining agent by 3/22/XX and provide the date of appointment.
- 4/2/XX POA returned call and scheduled an appointment on 4/19/XX at the Corporation's office. The examining agent sent President a letter, a copy to POA, to confirm the appointment.
- 4/18/XX POA left a voice message to the examining agent that he had to present in court in the next morning and he needed to cancel the appointment next day. The examining agent called President for his next earliest convenience for a meeting. President simply told the examining agent that he does not know. President stated that the examining agent should contact POA, not him. The examining agent called POA and left a voice message to request another appointment to be scheduled.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

- 4/27/XX The examining agent left a voice message to POA to follow up if another appointment had been scheduled.
- 4/30/XX The examining agent called President for the status of appointment. President stated that he could not get hold of POA recently. President stated that he would have POA return call for an appointment to be scheduled.
- 5/1/XX POA left the examining agent a voice message to ask options for appointment. The examining agent returned his call with available dates for appointment.
- 5/3/XX President stated that POA did not contact him for his schedule and President would contact POA to respond the examining agent's letter for appointment.
- 5/17/XX POA called the examining agent and scheduled an appointment on 5/30/XX at 10 am. He also stated that he had checked with his availability on that date. Additionally, he would mail in some documents before the appointment date.
- 5/30/XX The examining agent arrived at the Corporation's office in City at 9:50 am. The examining agent knocked the door of the office, but no one answered the door. POA did not show up for the appointment. Instead POA left the examining agent a voice message that President told him that the Corporation no longer has that location, and he would find out where the Corporation and President are moving toward to and call the examining agent back.
- 6/15/XX The examining agent tried to deliver Summons to President at an addresses available to the examining agent: Address, City, State. The address turned out to be a warehouse-like business suite. No one appeared in the building. The examining agent talked to the neighbor next door (Suite C). By the description provided, the examining agent was not quite sure if the examining agent could find President there after an hour of waiting. The examining agent made another attempt at another address: Address, City, State. The examining agent arrived at that address around noon. The office building seemed to be remodeled and its parking lots had been repaved. The examining agent talked to the people in the office. They are a used car dealership and just moved in a week ago. They are the new tenant. They did not meet the previous tenant or know the forwarding address of the Corporation. They returned the mails sent to the Corporation back to the post office.
- 7/3/XX The examining agent sent a final request letter to the Corporation to request President's presence to give testimony on 7/19/XX at 10 am and bring all books and records of the Corporation for the year 20XX at the examining agent's office in City, State. The final request letter was sent to the Corporation at the last known address, a copy to POA, both by certified mail.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

7/12/XX The examining agent received PS Form 3800 signed by POA indicating he received the final request letter on 7/6/XX. The tracking status of the certified mail sent to the Corporation indicating that the Corporation "Moved, Left No Forwarding Address".

7/19/XX President or POA did not appear before the examining agent to give testimony and provide the books and records listed on the IDR or Summons at the examining agent's office in City, State. The examining agent did not receive response from President or POA as to the final request.

To date, the examining agent has not received financials, organizational information, meeting minutes, board of director lists, and other documents requested on IDR1 from the Corporation, President, or POA since the examining agent informed President on 1/6/XX as to the examination.

The Corporation reported salary expenses on its Form 990-EZ filed for years 20XX through 20XX, however, the Corporation has not filed Form 941, *Employer's Quarterly Federal Tax Return*, for these tax periods. As of 5/15/XX (the due date of the 20XX return), the Corporation had not filed Form 990 for 20XX.

LAW

IRC § 501(c)(3) exempts from Federal income tax corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under § 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws. The Secretary may also prescribe by forms or regulations the requirement of every organization to keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

IRC § 6043(b) provides that every organization which for any of its last 5 taxable years preceding its liquidation, dissolution, termination, or substantial contraction was exempt from taxation under § 501(a) shall file such return and other information with respect to such liquidation, dissolution,

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

termination, or substantial contraction as the Secretary shall by forms or regulations prescribe; except that —

6043(b)(1) no return shall be required under this subsection from churches, their integrated auxiliaries, conventions or associations of churches, or any organization which is not a private foundation (as defined in § 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000, and

6043(b)(2) the Secretary may relieve any organization from such filing where he determines that such filing is not necessary to the efficient administration of the internal revenue laws or, with respect to an organization described in § 401(a), where the employer who established such organization files such a return.

Treas. Reg. § 1.6001-1(c) states that in addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§1.6033-1 through -3.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized Internal Revenue Service officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any Internal Revenue law.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization that has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the District Director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records The examining agent re so incomplete that the organization was unable to furnish such statements. The IRS held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status examining agent of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and Regulations under IRC § 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number EIN	Year/Period ended 12/31/20XX	

requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status.

GOVERNMENT'S POSITION

We are proposing revocation based on the Corporation's failure to provide information as required by law, as discussed below.

The Corporation has failed to provide records as is required in Code § 6033(a)(1) and Regulation § 1.6033-1(h)(2). They failed to provide any organizational or financial information that was requested during the examination. Numerous attempts were made to obtain records via correspondence and telephone contacts.

Without the Corporation's records, we cannot verify that the Corporation is operating according to their exempt purpose. Our position is that the organization, then, is not operating for exempt purposes. They have provided nothing to the contrary.

This situation is similar to the case in Revenue Ruling 59-95. In that case, tax-exempt status was revoked for failure to establish that it was observing the required conditions for exempt status, namely, providing financial statements. The Corporation has also failed to provide records and should likewise have their exempt status revoked.

TAXPAYER'S POSITION

The taxpayer's position is unknown at this time.

CONCLUSION

By not complying with the Code and Regulations, the organization has jeopardized its exempt status. They have failed to provide required documentation, thereby failing to be compliant with the Code, and failing to show any evidence of their exempt activities. We have no reason to believe that the Corporation is operating for exempt purposes.

As a result of the examination, we have determined that the Corporation is not operating for exempt purposes as a §501(c)(3) organization. They have not provided any information to the contrary. Accordingly, since the organization failed to operate primarily for exempt purposes, we are proposing revocation of their tax-exempt status, effective January 1, 20XX.

Since the organization will no longer have tax-exempt status beginning January 1, 20XX, they are liable for filing Form 1120, *U.S. Corporation Income Tax Return*, as of that date.